IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 36305 of 2004(V)

PETITIONER:

S.AMBI, S/O. SUKUMARAN,
ROHINI, ROAD MUKKU, KOMALAPURAM VILLAGE,
NORTH ARYAD P.O., ALAPPUZHA.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.GEORGE SEBASTIAN

RESPONDENTS:

GEORGE LUKE, S/O. K.T.LUKOSE,
KANICHATTUTHARAYIL, SOUTH ARYAD VILLAGE,ALAPPUZHA.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.36305/2004

APPENDIX

PETITIOENR'S EXHIBITS:

EXT.P1: COPY OF THE RESTORATION PETITION DATED 9.4.1999 IN I.A. NO.1834/99 FILED BY THE PETITIOENR BEFORE THE MUNSIFF COURT, ALAPPUZHA.

EXT.P2: COPY OF THE AFFIDAVIT AND PETITIONF OR CONDONATION OF DELAY DATED 10.4.2001 FILED BY THE PETITIONER BEFORE THE MUNSIFF COURT, ALAPPUZHA.

EXT.P3: COPY OF THE COMMON ORDER DATED 23.5.2001 IN I.A. NO.2143/01 & 2144/01 OF THE PRINCIPAL MUNSIFF COURT, ALAPPUZHA.

EXT.P4: COPY OF THE JUDGMENT DATED 4.7.2003 IN CMA NO.7/2001 OF THE PRINCIPAL SUB COURT, ALAPPUZHA.

EXT.P5: COPY OF THE PAPER PUBLICATION DATED 15.3.2003

/TRUE COPY/

P.A. TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 36305 of 2004

Dated this the 20th day of July , 2007

JUDGMENT

The respondent has not entered appearance to resist the prayers in this writ petition though he has been served with notice by publication. I.A.Nos.2143/2001 & 2144/2001, which were respectively applications for restoration of the suit which has been dismissed for default and for condonation of delay caused in the matter of filing the said application have been dismissed by the learned Munsiff under Ext.P3, the impugned order.

2. Having regard to the grounds raised in the writ petition and the submissions of Sri. George Sebastian, the learned counsel for the petitioner and noticing the circumstance that there is no resistance to the prayers in the writ petition, I set aside Ext.P3 and allow I.A.Nos.2143/01 & 2144/01. The trial court will post the I.A.No.1834/1999 for further consideration and dispose of that I.A. in accordance with law. It is needless to

mention that since the dismissal of the said suit was under Order 9 Rule 2 of C.P.C., the court below can dispose of I.A.1834/1999 without issuing notice to the respondent(defendant in the suit).

PIUS C. KURIAKOSE,
JUDGE.

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